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In The

Supreme Court of the United States

October Term, 1962

No. 13

RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL 1625, AFL-CIO, AND WILLIAM TRAVIS, PRESIDENT OF RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL 1625, AFL-CIO,

Petitioners,

v.

ALBERTA SCHERMERHORN, LOIS DEVITA, JOYCE E. THURO AND LARRY STARK,

Respondents

AMICUS CURIAE BRIEF ON BEHALF OF THE COMMONWEALTH OF VIRGINIA

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In The

Supreme Court of the United States

October Term, 1962

No. 368

RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL 1625, AFL-CIO, AND WILLIAM TRAVIS, PRESIDENT OF RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL 1625, AFL-CIO,

Petitioners,

v.

ALBERTA SCHERMERHORN, LOIS DEVITA, JOYCE E. THURO AND LARRY STARK,

Respondents

AMICUS CURIAE BRIEF ON BEHALF OF THE COMMONWEALTH OF VIRGINIA

PRELIMINARY STATEMENT

Robert Y. Button, Attorney General of Virginia, files this brief pursuant to Rule 42 of this Court and respectfully requests that it be received and considered.

OPINION BELOW

This case is before this Court upon a writ of certiorari to the judgment of the Supreme Court of Florida issued on April 25, 1962. The opinion of that court is reported in 141 So. 2d 269.

STATEMENT OF THE CASE

The case arose in the State of Florida which has as a part of the Declaration of Rights in its Constitution, Section 12, reading as follows:

> "The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union, or labor organization; provided, that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer."

The Appellant union entered into a collective bargaining contract with Food Fair Stores, Inc., containing, among the provisions, a clause as follows:

> "Employees shall have the right to voluntarily join or refrain from joining the Union. Employees who choose not to join the Union, however, and who are covered by the terms of this contract shall be required to pay as a condition of employment, an initial service fee and monthly service fees to the Union for the purpose of aiding the Union in defraying costs in connection with its legal obligations and responsibilities as the exclusive bargaining agent of the employees in the appropriate bargaining unit."

The respondents are individual employees of Food Fair who "are not and do not want to be members of the Union," "who do not want to participate in any Agency Shop relationship," and who "do not want to pay to the defendant Union any dues or service fees or initiation fees" (R. 5).

The individual employees sought an injunction against the enforcement of the Agency Shop clause.

The Supreme Court of Florida determined the clause to

be "palpably and totally inconsistent with the freedom of choice contemplated" by the Florida Constitution.

Pending review by this Court the Florida Supreme Court has stayed its mandate.

THE INTEREST OF THE COMMONWEALTH OF VIRGINIA WHICH IS SOUGHT TO BE PROTECTED HERE

The Commonwealth of Virginia since 1947 has protected the rights of its individual citizens with respect to their joining or refusing to join a labor union. This protection is afforded by Article 3, Chapter 4, Title 40, Code of Virginia, 1950, as amended, commonly known as the "Virginia Right to Work Law." (See Section 40-68 thru 40-74, Code of Virginia, 1950.) The Virginia Right to Work Law is set forth in full in the appendix hereto. The Virginia Act was approved on January 21, 1947, six months prior to the enactment of the "Taft-Hartley Law" by which Congress on June 23, 1947, amended the National Labor Relations Act.

The Virginia law provides in part that:

> "It is hereby declared to be the public policy of Virginia that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization." (See Section 40-68, Code of Virginia.)

In addition, the Virginia Law unquestionably and specifically prohibits the so-called "Agency Shop" arrangement.

> "No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization." (See Section 40-72, Code of Virginia)

The Virginia statute was before this Court in *Local Union No. 10* v. *Graham*, 385 U. S. 192, 73 S. Ct. 585, 97 L. Ed. 946, in which case, this Court affirmed the judgment of the Supreme Court of Appeals which had in turn affirmed the decree of the Virginia trial court enjoining peaceful picketing for "purposes and objectives in conflict with the provisions of the Right to Work laws of the State of Virginia" (345 U. S. 195).

The Virginia statute was also upheld by the State Supreme Court in *Finney* v. *Hankins*, 189 Va. 878, where Mr. Justice Buchanan speaking for a unanimous court said:

> "Very clearly there was reasonable basis for the legislative view that the conditions sought to be remedied by the Virginia statute could not be adequately remedied by mere regulatory provisions. There was evidence to be found in the acts of many States and of the Federal Congress to support the view that discrimination against employees because they did or did not belong to a union was against the public interest and should not be allowed. Laws merely regulating the union obviously would not accomplish that purpose. Basically, agreements involving such discrimination are hostile to our free enterprise system and to individual liberty of choice and action. Legislation that protects the citizen in his freedom to disagree and to decline an association which a majority would thrust upon him on the ground that it knows what is best for him, does no violence to the spirit of our fundamental law. The protection of minorities is the boast of our institutions and a basis of their asserted superiority over totalitarian regimes. The results have demonstrated the value of the democratic process."

Under the policy of "Right to Work" labor unions, management and workers have prospered in this State. Labor-

Management relations have been good and the "climate" thus produced has been conducive to the establishment within the State of new industries which have provided job opportunities to a growing population and strength to the State's economy.

A determination that Agency Shop contracts are permitted under Taft-Hartley and that such contracts are not subject to restriction by State Legislatures would obviously render impotent all State Right to Work legislation. The welfare of Virginia and her citizens demands that such result should not be reached.

QUESTION PRESENTED

The ultimate question presented by the case at bar which we shall hereinafter refer to as *Schermerhorn*, is whether certain State enactments, which protect individual employees from loss of employment for refusal to become "Members" of a union or to pay to such union, as non-members, dues, fees or so-called "service charges," were rendered nugatory by the adoption of the Taft-Hartley Act.

As a preliminary question, the Court will probably be required to determine whether Taft-Hartley permits so-called Agency Shop contracts, even in the absence of state legislation. This question is directly before the Court in *National Labor Relations Board* v. *General Motors Corporation*, No. 404, which we shall hereinafter refer to as *General Motors*.

ARGUMENT

I.

Does Taft-Hartley Permit Agency Shop Contracts?

The brief tendered for filing by the American Federation of Labor, et al., recognizes that the issues presented in

Schermerhorn and *General Motors* are "distinct but interrelated." In our view of the matter, an affirmance of *General Motors* would render it unnecessary for the Court to reach a decision in *Schermerhorn* because the contract involved in *Schermerhorn* is obviously an Agency Shop contract despite the efforts made in the briefs to establish the payments required of employees thereunder as "service fees" rather than payments in lieu of dues. Regardless of this fact, however, it is our view that Sections 7, 8(a)(1), 8(a)(3), and 14(b) of the Taft-Hartley Act are so interrelated that the right of a State to protect its citizens from "Agreements requiring membership in a labor organization as a condition of employment" preserved in Section 14(b) could never be interpreted as not covering an "Agreement requiring membership in a labor organization as a condition of employment" (Note: identical language) *which under Section 7 is the only type Agreement which can affect the employees' right to "refrain from any or all"* assistance to labor organizations.

Thus, while we submit that Section 7 compels the decision reached by the Sixth Circuit in *General Motors*, we likewise contend that *whatever limit* this Court determines for the scope of permissible contracts or agreements under Section 8(a)(3) that limit must also govern the meaning of the term "Agreement requiring membership in a labor organization as a condition of employment", as the term appears in Section 7 and obviously that same meaning must be given the identical term when it appears in Section 14(b). The petitioners made a clever attempt to avoid this result and in so doing, they anticipated a portion of the argument which follows and term it "facile" but charge that it is predicated on "patently unsound assumptions." The petitioners' "complete answer" to the argument is that "Sec-

tion 8(a)(3) sets forth the 'permissive limits' of union security allowed under the Act" (Petitioners' Brief, pg. 40) whereas, they assert, "Section 14(b) does not set forth the 'permissive limits' of state power at all" (Petitioners' Brief, pg. 40). They contend that Section 14(b) merely authorizes the states to create a single narrow exception to Congress' comprehensive regulation of labor relations in interstate commerce" (Petitioners' Brief, pg. 40). As we understand this argument, it runs generally as follows:

(a) Union shop contracts are permitted under 8(a)(3).

(b) The greater includes the lesser.

(c) Agency Shop is "lesser"; therefore

(d) Agency Shop is permitted by 8(a)(3).

The argument continues:

(a) 14(b) is an exception.

(b) the words in an exception must be:

1. "strictly construed" (Petitioners' Brief, pg. 62)
2. "read carefully and exactly" (Petitioners' Brief, pg. 62)
3. "given their normal and customary meaning" (Petitioners' Brief, pg. 60)

At great length Petitioners seek to demonstrate that the term "agreement requiring membership in a labor organization" means "satisfying the requirements for full participation in the legal activities of a private organization governed by its own rules" (Petitioners' Brief, pg. 25).

Let us explore the argument and discover the fallacy. Petitioners make passing reference to Section 7 of the Act on page 17 of their brief and recognize, in a footnote on page 25, that the words "Members" and "Membership" occur in the section. *They do not suggest what the term* "Agreement requiring membership in a labor organization" (the identical term used in (14(b)) *means when it is used in Section 7.* It is therefore, not strange that they have grounded their case on a fatally defective premise.

Petitioners' error is that they regard Section 8(a)(3) as the permissive grant and Section 14(b) as the exception thereto. They overlook the fact that the agreements permitted by Section 8(a)(3) are themselves *exceptions* to the *rights* specifically granted to employees, as individuals, in Section 7.

Section 7 provides:

> "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)."

Section 8(a)(3) grants no rights. It is specifically cast as a limitation—it defines activities by employers which are unfair labor practices. An examination of its language in conjunction with that of Section 8(a)(1) reveals that it is a reiteration of the *rights* granted to employees in Section 7 and a *determination of permissible exception* to those rights. Those sections are as follows:

"§8. (a) It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

* * *

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided,* That nothing in this Act, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective-bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in section 9(e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: *Provided further,* That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership; . . . As amended Sept. 14, 1959 Pub. L.

86-257, Title II, Section 201(e), Title VII, Sections 704(a) (c), 705(a), 73 Stat. 525, 542, 545."

As written, Section 7 would permit a "closed shop" if a "closed shop" were authorized in Section 8(a)(3). This follows because Section 7 contains an exception to the rights of employees to the extent such rights are affected by "agreements requiring membership in a labor organization" as authorized in Section 8(a)(3). Section 8(a)(3), therefore, puts a limitation on the type of agreements that can affect the employees rights under Section 7. Thus all of the petitioners' arguments concerning the strict interpretation of exceptions are applicable to Section 8(a)(3).

In short, the union, petitioner, has interpreted Taft-Hartley as granting to it the right to contract within "permissible limits." But in truth, Taft-Hartley has granted the right to employees to refrain from in any way assisting a labor organization, that right is subject to an exception, which, as petitioners say, must be *strictly construed* and given its *normal* and *customary meaning*. That meaning, according to petitioners' own interpretation of the exact statutory language, does not include an Agency Shop contract.

The final proviso in Section 8(a)(3), which limits the conditions under which an employee can be discharged for nonmembership in the union, does not operate to convert the contract permitted into one not requiring membership in the union. Instead, it only comes into play *after* a permitted union shop contract has been signed. After such contract is signed, the final proviso further protects the employee from discharge if he has tendered to the union the required dues and initiation fees.

In summary, under Sections 7 and 8, the employee has the right to refrain from any and all assistance to a labor

organization except that his right can be affected by a union shop agreement. But even under such agreement, he can only be discriminated against for failure to pay dues and fees. *Union Starch & Refining Co.* v. *Labor Board*, 186 F. 2d 1008, *Radio Officers Union* v. *Labor Board*, 346 U. S. 17.

In the case at bar the contract specifically permits employees not to join. It, therefore, is not a union shop agreement and cannot affect the employees' rights to refrain from assisting any labor organization.

II.

The Right of States To Prohibit Agency Shop Contracts Under Section 14(b)

From the above, it has appeared just what rights there are that Congress was granting to the individual employees —and just what exceptions could be made to those rights. In granting power to the states to prohibit certain agreements (Section 14(b)) Congress chose the exact language it had used to describe the agreements which could affect the employees' rights (Section 7).

Section 14(b) is as follows:

> "Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law."

Obviously what was intended—and what was done—was to place a Federal exception (Section 8(a)(3)) on the individuals' rights (Section 7) and at the same time provide that the State, if it desired, could prohibit even the Federal

exception (Section 14(b)). If this Court agrees, *Schermerhorn* must be affirmed. For an excellent discussion of this treatment of an Agency Shop contract, see *Amalgamated Ass'n.* v. *Las Vegas-Tenoph-Reno Stage Line,* 202 F. Supp. 726 (1962).

On the other hand, if this Court determines that Agency Shop contracts are invalid under Taft-Hartley, it is academic whether they may be enjoined by a State, although no reason suggests itself why the States should be denied such authority and *Algoma Plywood and Veneer Co.* v. *Wisconsin Board,* 336 U. S. 301, and *Willard* v. *Huffman,* 250 N. C. 396, 109 S. E. 2d 233, Cert. Den. 361 U. S. 893, are authority for the proposition that such jurisdiction remains in the States.

III.

The Purpose of Taft-Hartley

The arguments set forth above are entirely consistent with prior decisions regarding Sections 8(a)(3) and 14(b) and with the legislative purpose in the adoption of Taft-Hartley.

When Congress enacted the Taft-Hartley Law in 1947 it was not for the purpose of enlarging the power of the unions. The reverse was true. The National Labor Relations Act of 1935, known as the Wagner Act, recognized the so-called "closed shop." It was provided in the Wagner Act that employees had the right of self-organization, to bargain collectively through representatives, et cetera (Section 7). The Wagner Act outlined what constituted unfair labor practices on the part of the employer. However, nothing was stated concerning what constituted unfair labor practices on the part of a labor organization (Section 8). As time passed many abuses were committed under this Act, largely by the labor organizations, and some of the States,

including Virginia (January 1947), passed remedial legislation which among other things condemned and prohibited *compulsory unionism*. Conditions worsened to such extent that Congress enacted the Taft-Hartley Law in June 1947. An examination thereof indicates that it could be called the "Federal Right to Work Act." The Act (49 Stat. 452) added this language to Section 7:

> "[A]n (employee) shall also have the *right* to *refrain from* any or all such activities (to form, join, or *assist* labor organizations, etc.) except to the extent that such right may be *affected* by agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of this Title. (Insertions and emphasis supplied.)

Section 8(a)(3) was also amended. The first and only proviso therein under the Wagner Act was amended so that labor agreements could be entered into under which an employee could be required, on pain of discharge, to join a union after the first thirty days of employment. This arrangement is the so-called "Union Shop." This change, standing alone, would have held little benefit for a person desiring to obtain work but unwilling to join a union. All it did was postpone the time for becoming a member. Instead of joining before he was hired, an employee was given thirty days in which to corral the necessary money to meet the dues and initiation fees. Had the amendment stopped there the "right to refrain," newly granted in Section 7, *supra*, would have been entirely meaningless to the prospective employee. He would have been forced to become a member of a union in order to continue his employment thereby being forced to adhere to the principles and membership requirements regardless of how distasteful they might be to him.

However, Congress did further amend the Act by adding the following to Section 8(a)(3):

> "*Provided further*, that no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was *denied* or *terminated* for *reasons other* than the *failure* of the employee to tender the *periodic* dues and the *initiation fee* uniformly required as a condition of requiring or retaining membership." (Italics supplied.)

Section 8 was further amended by setting forth what constituted unfair labor practices on the part of labor organizations. (See, particularly, Section 8(b)(1).)

The effect of the above-quoted proviso was to permit an employee to refrain from all the activities of the labor organization and still hold his job provided only that he paid to the union periodic dues and an initiation fee. Such payments placed him in the identical position of all other employees as far as obtaining and keeping a job was concerned.

Even with the provisos it is clear that the Act was not intended to permit Agency Shop contracts. The constitutionality of such contracts, as they conflict with individual rights, is open to grave question. Senator Taft recognized the difficulty and, in debating the changes to Section 8(a)(3), he said:

> "I should like to say that the rule adopted by the committee is substantially the rule now in effect in Canada. Apparently by a decision of the justices of the Supreme Court of Canada in an arbitration case, the

present rule in Canada is that there can be a closed shop or a union shop, and the union does not have to admit an employee who applies for union membership, but the employee must, nevertheless, pay dues, even though he does not join the union.

"If he pays the dues without joining the union, he has the right to be employed. That, in effect, *is a kind of a tax*, if you please, for union support, if the union is the recognized bargaining agent for all the men, *but there is no constitutional way by which we can do that in the United States.*" 93 Cong. Rec. 4887 (1947). (Emphasis added.)

In short, Senator Taft was saying, that should Congress sanction Agency Shop it would be giving some degree of *statism* to unions.

Realizing that there were many States which had already enacted laws prohibiting compulsory unionism (with recent action by Wyoming there are now 20 Right-to-Work States), the Congress amended the Act by adding Section 14(b) as follows:

"Nothing in this subchapter shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial Law."

The object of this amendment was to make it clear that the power to prohibit compulsory unionism was reserved to the States if they saw fit to exercise it. The House Conference Report (H. Conf. Rep. No. 510, 80th Cong., 1st Sess. 60, 1 Leg. Hist. (1947) 564, stated:

"Under the House bill there was included a new Section 13 of the National Labor Relations Act to assure

that nothing in the Act was to be construed as authorizing any closed shop, union shop, maintenance of membership, or *other form of compulsory unionism agreement* in any State where the execution of such agreement would be contrary to State Law. Many States have enacted laws or adopted constitutional provisions to make all forms of compulsory unionism in those States illegal. It was never the intention of the National Labor Relations Act * * * to pre-empt the field in this regard so as to deprive the States of their powers to prevent compulsory unionism. * * * To make certain that there should be no question about this, Section 13 was included in the House bill. *The Conference Agreement, in Section 14(b), contains a provision having the same effect.*" (Italics supplied.)

Further evidence of legislative intent is found in the actions surrounding the 1959 amendment to those sub-sections of the Act found in Section 302. An attempt was made to alter the "check-off" provisions so as to make it legal for the employer to withhold and pay over to the union, not only dues, but also "periodic payments to the union." In other words, an attempt was made to require employers to collect non-member payments under Agency Shop contracts. The attempt was defeated. In *Amalgamated Ass'n. v. Las-Vegas-Tonaph-Reno Stage Line, supra,* the Court sets forth the legislative history of the 1959 attempt with great detail and clarity. We respectfully direct the Court's attention to the opinion.

As to whether Section 14(b) was intended to permit states to outlaw Agency Shop contracts the record is replete. During debate on the 1959 attempt to amend the "Check-off" Senator Barry Goldwater said:

"The bill permits the checkoff of fees paid in lieu of dues to a labor union. This tacitly recognizes that the

so-called agency shop is lawful. The agency shop is a device now being used in an attempt to circumvent the right-to-work laws in several states, by requiring a periodic payment to the union for its services as collective bargaining agent without requiring the employee to join the union. *Its effect, in practical terms, is exactly equivalent* to what is now permitted by way of union security under the Taft-Hartley Act, *but which it was the intention of Congress to permit the States to prohibit.*" (Emphasis added) (See 105 Cong. Rec. 6848 or II Legislative History of the Labor Management Reporting and Disclosure Act of 1959, 1271.)

As a final historical note we would point out Senator Taft's statement as to the purpose of Section 14(b). As a sponsor of the legislation and a member of the Senate-House Conference Committee which approved the final version, his views are particularly significant. Senator Taft said of Section 14(b):

> "Many States have enacted laws or adopted constitutional provisions to make *all forms of compulsory unionism in such States illegal.* As stated in the report accompanying the Senate committee bill, it was not the intent to deprive the States of that power * * *". (Emphasis added) (Cong. Rec., Senate, June 6, 1947, pg. 6675.)

The legislative history demonstrates no intent to legalize Agency Shop contracts, as such, even though in practical effect union shop contracts, under the proviso in Section 8(a)(3) operate on the employee as the equivalent of Agency Shop contracts. Congress provided that until union and employer agreed on a full union shop contract nothing less could affect the employees' rights under Section 7.

The legislative history demonstrates without question

that Section 14(b) left with the States full power to prohibit all forms of compulsory unionism . . . including Agency Shop contracts.

CONCLUSION

For the reasons stated herein and for the reasons set forth in the brief filed on behalf of the State of Florida with which we concur it is respectfully submitted that this Court should not disturb the actions of the Courts of the State of Florida which were taken in an effort to protect the individual rights of citizens of Florida, which rights are fully recognized by Federal law.

Respectfully submitted,

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APPENDIX

Chapter 4, Title 40
Code of Virginia (1950)

ARTICLE 3

Denial or Abridgment of Right to Work

§ 40-68. *Policy of article.*—It is hereby declared to be the public policy of Virginia that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization. (1947, p. 12; Michie Suppl. 1948, § 1887(113).)

This article does not violate any provision of the federal or Virginia Constitution.—Finney v. Hawkins, 189 Va. 878, 54 S. E. (2d) 872.

§ 40-69. *Agreements or combinations declared unlawful.*—Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for the employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy and an illegal combination or conspiracy. (1947, p. 12; Michie Suppl. 1948, § 1887(114).)

§ 40-70. *Employers not to require employees to become or remain members of union.*—No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer. (1947, p. 12; Michie Suppl. 1948, § 1887(115).)

§ 40-71. *Employers not to require abstention from membership in union.*—No person shall be required by an em-

ployer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment. (1947, p. 12; Michie Suppl. 1948, § 1887(116).)

§ 40-72. *Employer not to require payment of union dues, etc.*—No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization. (1947, p. 12; Michie Suppl. 1948, § 1887(117).)

§ 40-73. *Recovery by individual unlawfully denied employment.*—Any person who may be denied employment or be deprived of continuation of his employment in violation of §§ 40-70, 40-71 or 40-72 or of one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this Commonwealth such damages as he may have sustained by reason of such denial or deprivation of employment. (1947, p. 12; Michie Suppl. 1948, § 1887(118).)

§ 40-74. *Application of article to contracts.*—The provisions of this article shall not apply any lawful contract in force on April thirtieth, nineteen hundred and forty-seven, but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of an existing contract. (1947, p. 12; Michie Suppl. 1948, § 1887(119).)